



June 14, 2001

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

**Re: Competitive Market Initiatives: Follow-Up Comments of
Massachusetts Electric Company and Nantucket Electric Company**

Dear Ms. Cottrell:

This letter represents follow-up comments by Massachusetts Electric Company and Nantucket Electric Company (together “Mass. Electric” or “the Company”) in the Department’s “Competitive Market Initiatives” docket.

Mass. Electric has already filed a proposed initiative that it would like to implement this summer. The description of that initiative was contained in Attachment 1 to the Company’s letter dated May 22, 2001. This comment letter will not restate the components of that proposal. Rather, the primary purpose of this letter is to provide comment on three issues. The first issue relates to the policy question of whether the Department should authorize distribution companies to release lists of default service customers by rate class to suppliers. The second issue addresses the reasons why Mass. Electric seeks the Department’s written consent before implementing the remaining aspects of its Summer Initiative. Finally, Mass. Electric will provide some general comments about the timing of other potential initiatives.

Release of Default Service Non-Residential Customer Lists

Mass. Electric has proposed to release to suppliers a list of all its default service non-residential customers by rate class. Such a release would be conditioned upon the competitive power supplier agreeing not to use the lists for any purposes other than marketing electricity and related products to those customers.

Mass. Electric has heard one universal message from suppliers regarding market barriers. Suppliers have said that it is a very difficult task to market to default service customers when they don't know who these customers are and, as such, the resulting acquisition costs are prohibitive. From those comments, Mass. Electric has drawn the conclusion that one important step to spur significant customer movement to the market is to identify default service customers for suppliers. We have examined state and federal law and found no legal impediment to such an initiative. Moreover, to the extent anyone has concerns that such lists would become available to the general public, Mass. Electric believes that can be prevented through the terms of a reasonable and appropriate confidentiality agreement, through which the supplier agrees not to use the lists except for the stated purpose of marketing electricity and related products.

Certainly, Mass. Electric is sensitive to the issue raised by NStar at the technical session, at which Mr. May used an example of an elderly person who may feel offended to be classified as a default service customer. (Tr. p. 50) In fact, some of the customer focus groups that Mass. Electric has conducted indicated that some residential and small business customers were concerned about the label of "default" service. But labeling of default service is a separate and distinct issue from releasing customer lists. Regardless of the rate class or name for these customers, enabling the suppliers to know who they are is the first step to getting them competitive supply options to consider.

If the label placed on the service is a cause for concern, the Department has within its powers the ability to change it. There is nothing that says that distribution companies and the Department must use the term for purposes of implementing the statute. The Department can issue an order that requests the distribution companies to "label" the service differently on bills and communications with customers. For example, the service could be labeled "Last Resort Supply", "Short Term Market Supply", "Interim Power Supply", or any other similar label that may lessen the inadvertent negative connotation. Once the Department imbeds the new term in its regulations, Mass. Electric believes that the public perception of the supply will change as well.

Mass. Electric also believes the Department should authorize the release of residential default service customer lists. Recent focus group research indicates that residential customers are generally as supportive of releasing their names and addresses in order to receive competitive supply options as non-residential customers. Societal norms include the receipt of unsolicited mail and, as a result, individuals do not have a legitimate expectation of privacy that they will not receive offers through the mail. But, to the extent that release of residential lists raises additional policy questions, Mass. Electric urges the Department not to delay the release of the non-residential lists in the meantime. The approved default service rates for commercial and industrial default service customers are very high this summer. For that reason, it is undoubtedly in the public interest to move customers to the market as rapidly as possible. At a minimum, non-residential lists should be released for the summer while the Department considers the permanency and scope of a policy going forward.

The default service list initiative does raise a policy question for the Department regarding privacy concerns. But Mass. Electric does not believe that privacy is truly at stake here. The Company is not proposing to disclose usage data without direct customer authorization. Nor is the Company proposing to disclose income level or credit history.¹ Mass. Electric is only proposing to provide names and addresses. The Company believes the interest in getting viable market alternatives to customers at lower prices outweighs any concerns associated with the consequences of suppliers obtaining the name and addresses of customers on default service. To borrow a phrase used by Chairman Connelly at the technical conference, Mass. Electric believes that the privacy interest in the name and address of default service customers is “more apparent than real” (Tr. p. 52), provided that each recipient of the list is restricted in its use.

Active Supplier List Initiative

Another major component of Mass. Electric’s Summer Initiative is to develop a list of “Active Suppliers” who are making offers to customers in various rate classes. Mass. Electric did not hear any objections to this initiative raised during the technical session. Some marketers expressed concern that Mass. Electric might exclude suppliers. However, Mass. Electric has no intention of excluding viable suppliers who are committed to making offers. Ideally, the shorter the list, the easier it is for customers to manage the choices. But an overwhelming response to our initiative would be great news. Unfortunately, based on the relatively limited number of suppliers who elected to meet with Mass. Electric when it announced its initiative and requested ideas and feedback, Mass. Electric believes that the “turnout” will not be too great to handle. The Company would be pleasantly surprised if it had 6 suppliers ready, willing and able to make offers to customers in each rate class. For that reason, Mass. Electric urges the Department not to place any constraints on the Company’s ability to manage this initiative. The Company is certain that if there is a Supplier that feels unfairly “left out”, they will come to the Department for relief. At that time, the issue can be addressed in the context of real facts, rather than hypothetical circumstances that Mass. Electric finds hard to believe would ever occur.

Mass. Electric does believe, however, that it is important for the Department to provide it with a written consent or approval because of the potential interpretation of one of the Department’s regulations. Specifically, the Department has a set of regulations that were intended to protect against abuses by utilities and their affiliates. *See* 220 C.M.R. § 12.03. Section 12.03(14) of those regulations contains the following provision:

¹ If Mass. Electric was authorized to release residential lists, the lists would not distinguish which customers are low income from those that are not.

If a customer requests information about Energy Suppliers, the Distribution Company shall provide a current list of all Energy Suppliers operating on the system or registered with the Department, including its Energy-related Competitive Affiliate, but shall not promote its affiliate. The list of Energy Suppliers shall be in random sequence, and not in alphabetical order. The list shall be updated every 60 days to allow for a change in the random sequence.

Mass. Electric believes this regulation was promulgated to protect against distribution companies favoring their affiliates over other suppliers. But Mass. Electric does not have a competitive affiliate who is marketing electricity to retail customers. For that reason, in the context of the Mass. Electric Summer Initiative, the Company believes the regulation does not apply. Nevertheless, Mass. Electric requests the Department to provide a letter or order stating either (1) that the regulation does not apply or (2) that, if the regulations are construed to apply, the Department grants a waiver to Mass. Electric for purposes of the Company's Summer Initiative. This would be important because if the regulation does apply, Mass. Electric does not believe it can implement its Summer Initiative as set forth in its May 22 letter.

Other Initiatives

Mass. Electric is anxious to move forward with its Summer Initiative to encourage beneficial supply options for default service customers as soon possible. However, the Company does not know what effect, if any, the initiative will actually have on the market. The suppliers with which Mass. Electric has spoken concerning this initiative have expressed confidence that providing customer lists and raising awareness of available options through existing communications channels will have a measurable effect. Mass. Electric, however, remains very concerned that the immature market presents very little opportunity for residential customers today to have real competitive choices. For those customers, merely providing customer information to suppliers may not be enough to spur significant activity. For that reason, the Company will continue to explore other options to implement in the future.²

However, Mass. Electric believes it would be prudent to take one step at a time. The Company will be at the Department to urge further actions if competitive choices are not developing before the end of the year. But Mass. Electric recommends that the Department not issue any "emergency orders" that force action prematurely on any of the additional initiatives that were identified in the Company's second attachment to the May 22 filing. Mass. Electric is not proposing to launch an initiative and wait two years for the results. Mass. Electric is proposing to launch an initiative as a first step for the summer and, if there is too little activity within the next few months, return to the

² Some of the additional initiatives would raise other policy issues that the Department likely would need to consider in an open docket. As a result, immediate implementation is not possible without full Department consideration.

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Department for more aggressive actions before the end of this year. The Company only asks the Department to let it begin as soon as possible.

Thank you for your consideration of Mass. Electric's comments.

Sincerely,

Ronald T. Gerwatowski
Senior Counsel

c. Service Lists